

**Senate File 2339 - Introduced**

SENATE FILE 2339

BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2256)

(SUCCESSOR TO SSB 3050)

**A BILL FOR**

1 An Act relating to the administration of the redevelopment tax  
2 credits program by the economic development authority and  
3 including applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 15.291, Code 2014, is amended by adding  
2 the following new subsections:

3 NEW SUBSECTION. 01. *"Abandoned public building"* means a  
4 vertical improvement, as defined in section 15J.1, constructed  
5 for use primarily by a political subdivision of the state for a  
6 public purpose and whose current use is outdated or prevents  
7 a better or more efficient use of the property by the current  
8 owner. *"Abandoned public building"* includes vacant, blighted,  
9 obsolete, or otherwise underutilized property.

10 NEW SUBSECTION. 4A. *"Political subdivision"* means a city,  
11 county, township, or school district.

12 NEW SUBSECTION. 4B. *"Previously remediated or redeveloped"*  
13 means any prior remediation or redevelopment, including  
14 development for which an award of tax credits under this part  
15 has been made.

16 NEW SUBSECTION. 6A. *"Redevelopment tax credits program"*  
17 means the tax credits program administered pursuant to sections  
18 15.293A and 15.293B.

19 Sec. 2. Section 15.291, subsection 3, unnumbered paragraph  
20 1, Code 2014, is amended to read as follows:

21 *"Grayfield site"* means an abandoned public building or an  
22 industrial or commercial property meeting that meets all of the  
23 following requirements:

24 Sec. 3. Section 15.291, subsection 6, Code 2014, is amended  
25 to read as follows:

26 6. *"Qualifying redevelopment project"* means a brownfield or  
27 a grayfield site being redeveloped or improved by the property  
28 owner. *"Qualifying redevelopment project"* does not include a  
29 previously remediated or redeveloped brownfield or grayfield  
30 site.

31 Sec. 4. Section 15.293A, subsection 1, paragraph c, Code  
32 2014, is amended to read as follows:

33 c. (1) Any Except as provided in subparagraph (2), any  
34 tax credit in excess of the taxpayer's liability for the tax  
35 year is not refundable but may be credited to the tax liability

1 for the following five years or until depleted, whichever is  
2 earlier.

3 (2) A tax credit in excess of the taxpayer's liability for  
4 the tax year is refundable if all of the following conditions  
5 are met:

6 (a) The taxpayer is an investor making application for tax  
7 credits provided in this section and is an entity organized  
8 under chapter 504 and qualifying under section 501(c)(3) of the  
9 Internal Revenue Code as an organization exempt from federal  
10 income tax under section 501(a) of the Internal Revenue Code.

11 (b) The taxpayer establishes during the application  
12 process described in section 15.293B that the requirement in  
13 subparagraph division (a) is satisfied. The authority, when  
14 issuing a certificate to a taxpayer that meets the requirements  
15 in this subparagraph (2), shall indicate on the certificate  
16 that such requirements have been satisfied.

17 (3) A tax credit shall not be carried back to a tax year  
18 prior to the tax year in which the taxpayer first receives the  
19 tax credit.

20 Sec. 5. Section 15.293A, subsection 2, paragraph a, Code  
21 2014, is amended by striking the paragraph.

22 Sec. 6. Section 15.293A, subsection 2, paragraph b,  
23 subparagraph (1), Code 2014, is amended to read as follows:

24 (1) To claim a redevelopment tax credit under this  
25 section, a taxpayer must ~~attach~~ include one or more tax credit  
26 certificates ~~to~~ with the taxpayer's tax return. A tax credit  
27 certificate shall not be used or ~~attached to~~ included with a  
28 return filed for a taxable year beginning prior to ~~July 1, 2009~~  
29 the tax year listed on the certificate.

30 Sec. 7. Section 15.293A, subsection 3, unnumbered paragraph  
31 1, Code 2014, is amended to read as follows:

32 The amount of the tax credit shall ~~equal one of~~ be determined  
33 by the board in conjunction with the council. However, the tax  
34 credit shall not exceed the following amount, as applicable:

35 Sec. 8. Section 15.293A, subsection 6, Code 2014, is amended

1 to read as follows:

2 ~~6. For the fiscal year beginning July 1, 2009, the maximum~~  
3 ~~amount of tax credits issued by the authority shall not exceed~~  
4 ~~one million dollars. For each subsequent fiscal year, the~~  
5 The amount of tax credits that may be issued awarded by the  
6 authority board shall be subject to the limitation in section  
7 15.119.

8 Sec. 9. Section 15.293A, subsections 8, 9, 10, 11, 12, and  
9 13, Code 2014, are amended by striking the subsections.

10 Sec. 10. Section 15.293B, Code 2014, is amended to read as  
11 follows:

12 ~~15.293B Approval — requirements — repayment~~ Application —  
13 registration — agreement.

14 1. a. The authority shall develop a system for the  
15 application, review, registration, and authorization of  
16 projects awarded tax credits pursuant to this part and  
17 shall control the issuance of all tax credit certificates to  
18 investors pursuant to this part.

19 b. The authority shall accept and, in conjunction with  
20 the council, review applications for tax credits pursuant to  
21 provided in section 15.293A and, with the approval of the  
22 council, make tax credit award recommendations regarding the  
23 applications to the board.

24 c. Applications for redevelopment tax credits shall be  
25 accepted during an annual application period established by the  
26 authority.

27 d. Upon review of an application, the authority may  
28 register the project with the redevelopment tax credits  
29 program. If the authority registers the project, the authority  
30 may, in conjunction with the council, make a preliminary  
31 determination as to the amount of tax credit for which an award  
32 recommendation will be made to the board.

33 e. After registering the project, the authority shall notify  
34 the investor of successful registration under the redevelopment  
35 tax credits program. The notification may include the amount

1 of tax credit for which an award recommendation will be made  
2 to the board. If an award recommendation is included in the  
3 notification, such notification shall include a statement that  
4 the award recommendation is a recommendation only. The amount  
5 of tax credit included on a tax credit certificate issued  
6 pursuant to this section shall be contingent upon an award  
7 by the board and upon completion of the requirements in this  
8 section.

9 f. (1) All completed applications shall be reviewed and  
10 scored on a competitive basis by the council and the board. In  
11 reviewing and scoring applications, the council and the board  
12 may consider any factors the council and board deem appropriate  
13 for a competitive application process, including but not  
14 limited to the financial need, quality, and feasibility of a  
15 qualifying redevelopment project.

16 (2) For purposes of this paragraph:

17 (a) "Feasibility" means the likelihood that the project will  
18 obtain the financing necessary to allow for full completion of  
19 the project and the likelihood that the proposed redevelopment  
20 or improvement that is the subject of the project will be fully  
21 completed.

22 (b) "Financial need" means the difference between the total  
23 costs of the project less the total financing that will be  
24 received for the project.

25 (c) "Quality" means the merit of the project after  
26 considering and evaluating its total characteristics and  
27 measuring those characteristics in a uniform, objective manner  
28 against the total characteristics of other projects that have  
29 applied for the tax credit provided in section 15.293A during  
30 the same annual application period.

31 g. Upon reviewing and scoring all applications that are  
32 part of an annual application period, the board may award tax  
33 credits provided in section 15.293A.

34 h. If the applicant for a tax credit provided in section  
35 15.293A has also applied to an agency of the federal government

1 or to the authority, the board, or any other agency of state  
2 government for additional financial assistance, the authority,  
3 the council, and the board shall consider the amount of funding  
4 to be received from such public sources when making a tax  
5 credit award pursuant to this section.

6 i. An applicant that is unsuccessful in receiving a tax  
7 credit award during an annual application period may make  
8 additional applications during subsequent annual application  
9 periods. Such applicants shall be required to submit a new  
10 application and shall be competitively reviewed and scored in  
11 the same manner as other applicants in that annual application  
12 period.

13 2. An investor applying for a tax credit shall provide the  
14 authority with all of the following:

15 a. Information showing the total costs of the qualifying  
16 redevelopment project, including the costs of land acquisition,  
17 cleanup, and redevelopment.

18 b. Information about the financing sources of the investment  
19 which are directly related to the qualifying redevelopment  
20 project for which the ~~taxpayer~~ investor is seeking approval for  
21 a tax credit, ~~as provided in section 15.293A.~~

22 c. Any other information deemed necessary by the board and  
23 the council to review and score the application pursuant to  
24 subsection 1.

25 3. ~~If a taxpayer receives~~ an investor is awarded a tax  
26 credit pursuant to ~~section 15.293A, but~~ this section, the  
27 authority and the investor shall enter into an agreement  
28 concerning the qualifying redevelopment project. If the  
29 investor fails to comply with any of the requirements of the  
30 agreement, the taxpayer loses any right to the tax credit,  
31 and the authority may find the investor in default under the  
32 agreement and may revoke all or a portion of the tax credit  
33 award. The department of revenue, upon notification by the  
34 authority of an event of default, shall seek recovery repayment  
35 of the value of the any such tax credit received already

1 claimed in the same manner as provided in section 15.330,  
2 subsection 2.

3 ~~4. This section is repealed on June 30, 2021. A registered~~  
4 project shall be completed within thirty months of the date the  
5 project was registered unless the authority provides additional  
6 time to complete the project. A project shall not be provided  
7 more than twelve months of additional time. If the registered  
8 project is not completed within the time required, the project  
9 is not eligible to claim a tax credit provided in section  
10 15.293A.

11 5. a. Upon completion of a registered project, an audit  
12 of the project, completed by an independent certified public  
13 accountant licensed in this state, shall be submitted to the  
14 authority.

15 b. Upon review of the audit and verification of the amount  
16 of the qualifying investment, the authority may issue a tax  
17 credit certificate to the investor stating the amount of tax  
18 credit under section 15.293A the investor may claim.

19 6. The authority, in conjunction with the department of  
20 revenue, shall adopt rules to administer the redevelopment tax  
21 credits program.

22 Sec. 11. Section 15.294, subsection 1, paragraph c, Code  
23 2014, is amended by striking the paragraph and inserting in  
24 lieu thereof the following:

25 c. One person selected by the board of directors of the  
26 professional developers of Iowa.

27 Sec. 12. Section 15.294, subsection 4, Code 2014, is amended  
28 to read as follows:

29 4. The council, in conjunction with the authority, shall  
30 consider applications for redevelopment tax credits as  
31 described provided in sections section 15.293A and 15.293B,  
32 and may recommend to the authority which applications to  
33 approve and the amount of such tax credits that each project is  
34 eligible to receive should be awarded by the board.

35 Sec. 13. APPLICABILITY. This Act applies to qualifying

1 redevelopment projects for which a redevelopment tax credit  
2 is awarded on or after the effective date of this Act, and  
3 qualifying redevelopment projects for which a redevelopment  
4 tax credit was awarded prior to the effective date of this Act  
5 shall be governed by sections 15.291, 15.293A, and 15.293B,  
6 Code 2014.

7 EXPLANATION

8 The inclusion of this explanation does not constitute agreement with  
9 the explanation's substance by the members of the general assembly.

10 This bill makes several changes to the redevelopment tax  
11 credits program administered by the economic development  
12 authority (EDA).

13 The bill defines the "redevelopment tax credits program"  
14 to be the tax credits program administered pursuant to Code  
15 sections 15.293A and 15.293B.

16 The bill affects the qualification of redevelopment projects  
17 under the redevelopment tax credits program (program) by  
18 amending the definition of "grayfield site" to include an  
19 abandoned public building, and by specifying that a previously  
20 remediated or redeveloped brownfield site, which does not  
21 qualify for the program, means any prior remediation or  
22 redevelopment, including redevelopment for which an award of  
23 tax credits has been made under the program. "Abandoned public  
24 building" and related terms are defined in the bill.

25 The bill amends the tax credit application and award  
26 process. The bill provides that tax credit applications shall  
27 be accepted by the EDA during an annual application period  
28 established by the EDA. After an application is received, the  
29 EDA may register the project under the program and may make a  
30 preliminary determination as to the amount of tax credit for  
31 which an award recommendation will be made to the economic  
32 development authority board (board). The EDA then notifies  
33 the investor of successful registration and, if applicable,  
34 the amount of tax credit for which an award recommendation  
35 will be made to the board. All applications that are part of

1 that annual application period are required to be reviewed and  
2 scored on a competitive basis by the brownfield redevelopment  
3 advisory council (council) and the board. In reviewing and  
4 scoring applications, the council and the board are allowed to  
5 consider any factors they deem appropriate for a competitive  
6 application process, including but not limited to the financial  
7 need, quality, and feasibility of a project.

8 The bill provides that if an applicant is unsuccessful in  
9 receiving a tax credit award from the board during one annual  
10 application period, the applicant may apply in a subsequent  
11 annual application period provided the applicant submits a new  
12 application and is competitively reviewed and scored in the  
13 same manner as other applicants in that annual application  
14 period.

15 The bill requires a tax credit application to include any  
16 information deemed necessary by the board and the council to  
17 appropriately review and score the application, in addition to  
18 the information already required under Iowa law relating to the  
19 project's total costs and financing sources. The bill strikes  
20 language requiring the EDA to maintain a wait list for tax  
21 credits.

22 The bill strikes the provision requiring that if a  
23 redevelopment tax credit recipient has also applied to the  
24 state for additional financial assistance, the state shall not  
25 consider the receipt of the tax credit when considering the  
26 application for additional financial assistance and instead  
27 provides that if a redevelopment tax credit applicant also  
28 applies to a federal or state agency for additional financial  
29 assistance, the EDA and the board shall consider the amount  
30 of funding from these public sources when making a tax credit  
31 award.

32 The bill amends the amount of the tax credit. Under  
33 current law, the amount of the tax credit is equal to a certain  
34 percentage of the investor's qualifying investment depending  
35 on whether the project is located on a grayfield site or a

1 brownfield site and whether or not the project meets green  
2 development requirements. The bill provides that the amount  
3 of the tax credit shall be an amount determined by the board  
4 in conjunction with the council, but shall not exceed those  
5 percentages already provided under current law. The bill  
6 provides that the amount of tax credit included on a tax credit  
7 certificate shall be contingent on an award by the board, and  
8 on the completion of an audit of the project which audit is  
9 already required under Iowa law.

10 The bill requires agreements under the program. An investor  
11 awarded tax credits is required to enter into an agreement  
12 with the EDA concerning the qualifying redevelopment project.  
13 The bill amends language relating to a taxpayer's loss of  
14 any right to a tax credit for failure to comply with any  
15 requirements, to specify that if an investor fails to comply  
16 with any requirements of the agreement, the authority may find  
17 the investor in default and revoke all or a portion of the  
18 tax credit award. If recovery of a claimed tax credit by the  
19 department of revenue (DOR), as required under current law,  
20 is necessary for failure to maintain the requirements of an  
21 agreement, the bill provides that such recovery shall be in  
22 the same manner as provided in Code section 15.330, subsection  
23 2, which relates to the recovery of incentives under the high  
24 quality jobs program.

25 The bill amends the process of claiming the tax credits  
26 by allowing the currently nonrefundable tax credits to be  
27 refundable, but only to nonprofit organizations under certain  
28 conditions. In order for tax credits to qualify as refundable,  
29 a nonprofit organization must be an investor applying for  
30 the tax credits, must be organized under Code chapter 504,  
31 must qualify as a tax-exempt organization under section  
32 501(c)(3) of the Internal Revenue Code, and must establish  
33 these requirements during the tax credit application process.  
34 The EDA will be required to indicate on the tax credit  
35 certificate issued to these nonprofit organizations that such

1 requirements have been met. The bill requires that a taxpayer  
2 include, rather than attach, a tax credit certificate with the  
3 taxpayer's tax return. The bill amends the requirement that  
4 tax credits shall not be claimed for taxable years beginning  
5 prior to July 1, 2009, to require that tax credits shall not  
6 be claimed prior to the tax year listed on the tax credit  
7 certificate.

8 The bill strikes Code section 15.293A, subsections 10 and  
9 11, relating to the adoption of administrative rules by the  
10 EDA and the DOR, and the EDA's cooperation with the department  
11 of natural resources and local governments regarding the  
12 dissemination of information about the program. The bill  
13 requires the authority, in conjunction with the department  
14 of revenue, to adopt rules to administer the program. The  
15 bill transfers to Code section 15.293B the language from  
16 Code section 15.293A, subsection 8, relating to the deadline  
17 for completing registered projects, and amends part of that  
18 language referencing the project's approval date to instead  
19 reference the date upon which the project was registered.

20 The bill amends the membership of the council to delete the  
21 director of transportation and to add a person chosen by the  
22 board of directors of the professional developers of Iowa.

23 The bill amends the duties and powers of the council to  
24 provide that it may recommend to the EDA the amount of tax  
25 credits that a redevelopment project should be awarded, instead  
26 of the amount of tax credits that a redevelopment project is  
27 eligible to receive.

28 Finally, the bill removes the automatic repeal date of the  
29 program, which under current law is set to expire on June 30,  
30 2021.

31 The bill applies to qualifying redevelopment projects for  
32 which a redevelopment tax credit is awarded on or after the  
33 effective date of the bill. The bill provides that qualifying  
34 redevelopment projects for which a redevelopment tax credit  
35 was awarded prior to the effective date of the bill shall be

S.F. 2339

1 governed by current law.